



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105**

Via Email: chris.conley@apfc.com

In Reply Refer to:
AMPAC Fine Chemicals, LLC
P. O. Box 1718
Rancho Cordova, CA 95741-1718

Chris Conley
Vice President
AMPAC Fine Chemicals, LLC
P. O. Box 1718
Rancho Cordova, CA 95741-1718

RE: Notice of Potential Violations of Section 112(r)(1) of the Clean Air Act

Dear Vice President Conley:

Representatives from the U.S. Environmental Protection Agency, Region IX ("EPA") conducted an inspection of the AMPAC Fine Chemicals, LLC (the "Company") facility located at Highway 50 and Hazel Road ("Facility") on January 28, 2020, to determine compliance with the Emergency Planning and Community Right-to-Know Act Sections 304–312 (42 U.S.C. §§ 11004–11022), the Comprehensive Environmental Response Compensation and Liability Act Section 103 (42 U.S.C § 9603), and the Risk Management Program of Section 112(r)(7) of the Clean Air Act ("CAA") (42 U.S.C. § 7412).

Based upon information revealed during the inspection and subsequently gathered, EPA is prepared to bring a civil administrative action against the Company to ensure compliance with federal law and assess penalties pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. The allegations being considered include violations of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and the associated implementing regulations.

After reviewing the Company's responses, and supporting documentation, EPA is considering the following claims:

1. **40 C.F.R. § 68.150 – Failure to Submit a Risk Management Plan (AOC 4).** *Owners or operators must submit a risk management plan ("RMP") no later than the date on which*

a regulated substance is first present above a threshold quantity in a process. The Company stores the RMP regulated substance 37% HCI above the threshold quantity but has not submitted an RMP.

2. **42 U.S.C. § 7412(r)(1) – Failure to Design and Maintain a Safe Facility.** *Owners and operators of stationary sources producing, processing, handling or storing any substance listed pursuant to Section 112(r)(3), or any other extremely hazardous substance, have a general duty to, among other things, design and maintain a safe facility taking such steps as are necessary to prevent releases.* Based on the available evidence, it appears the Company may have failed to design and/or maintain a safe facility in the following ways:
 - a. Inadequate PHA Recommendation Tracking (AOC 5). The Company did not develop and implement a system to track the progress of process hazard analysis (“PHA”) recommendations consistent with industry standards. As of February 2018, the ACC 302.2 PHA recommendations include multiple “carryover” recommendations that have not been completed from 2012, 2013, and 2016. The Company’s tracking document does not set dates for responsible groups to act on recommendations, resulting in many recommendations not being addressed in a timely fashion. *See, e.g.,* Center for Chemical Process Safety (“CCPS”) Guidelines for Hazard Evaluation Procedures, 2008, Chapter 8, Section 8.5.
 - b. Illegible Piping Labels (AOC 6). The Company did not maintain its piping system labeling consistent with industry standards. The labeling on the piping in the tank farm area is torn and illegible, so it no longer indicates the contents inside the piping or the direction of flow. *See, e.g.,* American Society of Mechanical Engineers (“ASME”) A13.1-2015, Section 3.1.
 - c. V-936 Unsafe Discharge Release Location (AOC 7). The Company did not design the V-936 discharge piping consistent with industry standards. Discharge piping for V-936, an emergency vent collection vessel in the 05-148 production facility, does not release to a safe location. The discharge piping is open to the atmosphere, is bent towards the ground, is at a height that could affect workers underneath, and its contents could ignite. *See, e.g.,* American Petroleum Institute (“API”) 2000-1998, Section 4.5.3.1(a); and ASME BPVC 2011, Section VIII: Rules for Construction of Pressure Vessels, Section UG-135(f).
 - d. V-936 Inadequate Capacity (AOC 8). The Company did not design the V-936 emergency vent collection vessel to have adequate capacity consistent with industry standards. V-936 collects from six reactors in the 05-148 production building. However, V-936 is documented as only “sized to match the capacity of the largest vessel (2,000 gallons) in the 05-148 facility.” Additionally, the processes in the 05-148 production building use flammable materials during production, and a fire inside the building could affect more than one of the six reactors, resulting in liquid from more than one reactor entering V-936. Therefore, sizing V-936 for just one reactor is unsafe and inconsistent with industry standards. *See, e.g.,* ASME Boiler and Pressure Vessel Code (“BPVC”) – 2007,

Sections UG-133(b)–(c); and American Petroleum Institute (“API”) 521-2014, Section 5.8.7.

- e. R-925 Inaccurate or Missing Design Calculation (AOC 9 and 10). The Company did not maintain accurate design calculations for the R-925 and R-915 reactors consistent with industry standards. The relief design calculation for reactor R-925 includes an inconsistency where the calculation uses a maximum allowable working pressure (“MAWP”) of 150 pounds per square inch gauge (“psig”), but the documented U-1 for R-925 lists the MAWP as 100 psig. Additionally, the Company did not have a relief design basis for reactor R-915 prior to the request by the USEPA inspection team. *See, e.g.*, ASME BPVC – 2007, Sections UG-125(a)(2) and UG-134(a); and API 521-2007, Section 3.47.
- f. Incomplete or Missing Relief Device Records (AOC 11 and 13). The Company did not maintain relief device replacement records for numerous reactors consistent with industry standards. Relief devices for reactors R-900, R-905, R-910, R-915, R-920, and R-925, and rupture disc PSE D665-1 were not listed at all in the relief device tracking spreadsheet. *See, e.g.*, CCPS Guidelines for Process Safety Documentation, 1995, Chapter 5, Section 5.2.2; CCPS Guidelines for Mechanical Integrity Systems, Chapter 4; and API 576-2009, Sections 5.7, 6.2.17, and 7.2.1.
- g. Inaccurate Piping and Instrumentation Diagrams (AOC 14). The Company did not maintain accurate piping and instrumentation diagrams (“P&IDs”) consistent with industry standards. Errors were observed in the following P&IDs: AFC-PID-00780, AFC-PID-00772, AFC-PID-00768, AFC-PID-00762, AFC-PID-00764, AFC-PID-00766, AFC-PID-00770, AFC-PID-00772, AFC-PID-00679, AFC-PID-00681, AFC-PID-00696, P&ID AFC-PID-00681 (revision 22), and P&ID AFC-PID-00696 (revision 23). *See, e.g.*, CCPS Guidelines for Process Safety Documentation, 1995, Chapter 5, Section 5.2.2.
- h. New Areas of Concern. The enforcement team has identified new areas of concern after reviewing the Company’s response to EPA’s request for information, and is therefore considering additional claims based on the following:
 - i. Rupture Disc Sizing and/or Documentation (AOC 16). Documents indicate that the rupture discs for R-900, R-905, R-910, R-915, R-920, and R-925 are sized for fire, and not for runaway reactions, cooling water failure, or overpressure as a result of nitrogen system control failure. Notably, the nitrogen system operates at approximately 100 psig, yet the rupture discs are set at 70 psig. Based on this, the Company may not have sized the rupture discs consistent with industry standards or may not have maintained documentation for the rupture discs consistent with industry standards. *See, e.g.*, API 521-2014, Sections 1 and 4.3.1.

- ii. *Inadequate Protection for Pressure Vessels (AOC 17)*. Documents indicate that the rupture discs for reactors R-900, R-905, R-910, R-915, R-920, and R-925 are sized based on National Fire Protection Association (“NFPA”) 30, which is for non-pressurized tanks. However, the reactors have MAWPs of 150 psig and 100 psig and are therefore considered pressure vessels under NFPA 30. Consequently, the rupture discs for these reactors may not be properly sized consistent with industry standards. *See, e.g., NFPA 30, Section 21.4.2.3; ASME BPVC, UG-125(a) and U-1 Scope (c)(2)(-h)(-1).*

Before filing a Determination of Violation, Compliance Order, and Notice of Right to Request a Hearing (“Complaint”), EPA is extending to you the opportunity to advise EPA of any other information that the Company believes should be considered before the filing of such a Complaint. Relevant information may include any evidence of your reliance on compliance assistance, additional compliance tasks performed after the investigation, or financial factors bearing on your ability to pay a civil penalty. EPA has reviewed the documents included in the Company’s previous submittals. These documents do not need to be resubmitted.

Your response to this letter must be made by a letter signed by a person or persons duly authorized to represent the Company. Please send your response via email to Donald Nixon, Environmental Engineer, at nixon.donald@epa.gov and Nicolas Cardella, Assistant Regional Counsel, at cardella.nicolas@epa.gov. **Please ensure that the response is received no later than thirty (30) calendar days after receipt of this letter.** EPA anticipates filing a complaint in this matter within sixty (60) days of receipt of this letter, unless the Company first advises EPA, with supporting information, of substantial reasons not to proceed as planned.

Any penalty proposed for violation of the CAA will be calculated pursuant to EPA's June 2012 *Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68* (“Penalty Policy”).¹ The Penalty Policy is subject to inflation adjustments under the applicable Civil Monetary Penalty Inflation Adjustment Rule, as well as potential changes in EPA guidance.²

Please note that, pursuant to regulations located at 40 C.F.R. Part 2, Subpart B, you are entitled to assert a business confidentiality claim covering any part of any submitted information as defined in 40 C.F.R. § 2.201(c). Asserting a business confidentiality claim does not relieve you from the obligation to respond fully to this letter. Failure to assert such a claim makes the submitted information subject to public disclosure upon request and without further notice to you, pursuant to the Freedom of Information Act, 5 U.S.C. § 552. Information subject to a business confidentiality claim may be available to the public only to the extent set forth in the above-cited regulation. EPA has authority to use the information requested herein in an administrative, civil, or criminal action. In addition, EPA has not waived any rights to take enforcement action for past or future violations.

¹ <https://www.epa.gov/sites/production/files/documents/112rcep062012.pdf>

² <https://www.epa.gov/sites/production/files/2020-01/documents/2020penaltyinflationruleadjustments.pdf>

Even if you are unaware of any mitigating or exculpatory factors, we are extending to you the opportunity to commence settlement discussions concerning the issues described above. EPA encourages you to explore the possibility of settlement. If you are interested in commencing settlement negotiations or have any questions regarding this notice, please contact Nicolas Cardella, Assistant Regional Counsel, at (415) 972-3541 or cardella.nicolas@epa.gov.

Sincerely,

Kaoru Morimoto, Manager
Hazardous Waste & Chemical Section
Enforcement and Compliance Assurance Division

CC:

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